UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

IN RE ENRON CORPORORATION SECURITIES, DERIVATIVE & "ERISA" LITIGATION	§ § §	MDL 1446
MARK NEWBY, ET AL.,	§	
V.	§ §	CIVIL ACTION NO. H-01-3624 AND CONSOLIDATED CASES
ENRON CORPORATION, ET AL.	§	
LILA WARD, Individually and On Behalf of All Others Similarly Situated	§ §	
V.	§ §	CONSOLIDATED CASE
STANLEY C. HORTON, ET AL.	§	

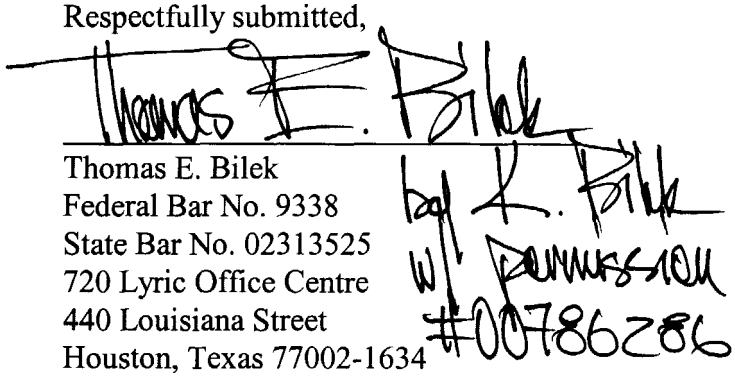
MOTION FOR APPOINTMENT AS LEAD PLAINTIFF AND FOR APPROVAL OF SELECTION OF LEAD AND LIAISON COUNSEL[1]

Class members Sam E. Henry, Ted Zigan, and Melvin H. and Elsie M. Schulz (the "Henry Group") by their counsel, hereby move this Court for an Order (attached hereto as Exhibit A): (i) appointing the Henry Group as Lead Plaintiff; (ii) approving the Henry Group's selection of the law firms of Cauley Geller Bowman Coates & Rudman, LLP and Milberg Weiss Bershad Hynes & Lerach LLP to serve as Lead Counsel and the law firms of Federman & Sherwood and Hoeffner & Bilek, LLP to serve as Liaison Counsel; and (iii) granting such other and further relief as the Court may deem just and proper. In support of this Motion, the Henry

[1]Attached as Apx. 1 is an Order of Consolidation entered by this Court on February 13, 2003, which consolidated the *Ward* case (transferred from the Northern District into the Southern District under Cause No. H-03-0484) into *Newby*.

Group submits herewith a Memorandum of Law and Declaration of Kelly Cox Bilek dated April 29, 2003.

Respectfully submitted,



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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

In Re ENRON CORPORATION SECURITIES, DERIVATIVE & "ERISA" LITIGATION,	§ § §	MDL 1446
MARK NEWBY, ET AL., Plaintiffs VS. ENRON CORPORATION, ET AL., Defendants	§ § § § § § § §	CIVIL ACTION NO. H-01-3624 AND CONSOLIDATED CASES
LILA WARD, Individually and On Behalf of All Others Similarly Situated, Plaintiff, VS. STANLEY C. HORTON, DANA R. GIBBS, LAWRENCE CLAYTON, JR., KENNETH L. LAY AND ARTHUR ANDERSEN, LLP, Defendants	§ § § § § § § § § § § § §	CIVIL ACTION NO. H-03-0484 ✓

ORDER OF CONSOLIDATION

Pursuant to the order of consolidation entered in lead case H-01-3624, Newby v. Enron Corp. et al., on December 12, 2001, the above referenced case, H-03-0484, is hereby CONSOLIDATED into H-01-3624.

SIGNED at Houston, Texas, this 13th day of February, 2003.

Melinda Harmon
MELINDA HARMON
UNITED STATES DISTRICT JUDGE

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

IN RE ENRON CORPORORATION SECURITIES, DERIVATIVE & "ERISA" LITIGATION	§ § §	MDL 1446
MARK NEWBY, ET AL., V. ENRON CORPORATION, ET AL.	§ § § § §	CIVIL ACTION NO. H-01-3624 AND CONSOLIDATED CASES
LILA WARD, Individually and On Behalf of All Others Similarly Situated V. STANLEY C. HORTON, ET AL.	§ § § § § § §	CONSOLIDATED CASE

DECLARATION OF KELLY COX BILEK IN SUPPORT OF THE MOTION OF THE HENRY GROUP FOR APPOINTMENT AS LEAD PLAINTIFF AND FOR APPROVAL OF SELECTION OF LEAD AND LIAISON COUNSEL

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

LILA WARD, Individually And On Behalf Of All Others Similarly Situated, Plaintiff, vs. STANLEY C. HORTON, DANA R. GIBBS, LAWRENCE CLAYTON JR., KENNETH L. LAY and ARTHUR ANDERSEN, LLP, Defendants.	CASE NO. H-03-0484 CLASS ACTION COMPLAINT FOR VIOLATIONS OF FEDERAL SECURITIES LAWS JURY TRIAL DEMANDED

Plaintiff, individually and on behalf of all other persons similarly situated, by her undersigned counsel, alleges, except as to allegations specifically pertaining to plaintiff and her counsel, upon the investigation conducted by counsel, which included, among other things, a review of the public announcements made by defendants, Securities and Exchange Commission ("SEC") filings, press releases and media reports, and other public statements regarding Eott Energy Partners, L.P. ("EOTT" or the "Company"), as follows[1]:

[1] Plaintiff believes that substantial and additional evidentiary support will exist for the allegations set forth herein after a reasonable opportunity for discovery.

NATURE OF THE ACTION

1. This is a shareholders' class action on behalf of all persons and entities, other than defendants, who purchased the common units of EOTT between July 2, 2001 and January 22, 2002, inclusive (the "Class Period"), seeking to pursue remedies under the Securities Exchange Act of 1934 (the "Exchange Act").

2. This action represents yet another phase of the massive securities fraud relating to the collapse of Enron Corp. ("Enron"), which ranks as one of the largest corporate bankruptcies in United States history. Due to the extensive control and influence maintained by Enron over EOTT, EOTT and certain of its insiders disseminated false and misleading statements during the Class Period regarding EOTT's financial performance and future prospects and substantially overstated the price of the Company's common units.

3. More specifically, through certain agreements that EOTT entered into with Enron and its affiliates, EOTT became heavily dependent on Enron's operations for its success. In turn, EOTT's dependency on Enron meant that it was in the Company's direct interest to ensure Enron's viability and success. As detailed more fully below, throughout the Class Period, the defendants knew or recklessly disregarded that Enron would not be able to live up to its commitments under the agreements and the devastating impact that Enron's inevitable collapse would have on its business.

4. Despite such knowledge, defendants issued, or caused to be issued, materially false and misleading statements regarding the Company's business and failed to reveal the material and imminent risk that the Company was facing because of Enron's true and precarious financial condition which was known to, or recklessly disregarded by defendants.

5. Following Enron's bankruptcy filing, and the subsequent announcement that Enron could not satisfy its obligations to the Company, the price of the Company's common units plummeted by 32%, falling from $15.05 per unit to $10.19 per unit on unusually heavy trading volume.

6. At the same time that EOTT and Enron were disseminating false and misleading statements, and thereby artificially inflating the value of EOTT's common units, Enron sold 3,276,483 common units and 6,999,300 subordinated units at the artificially inflated price of $19.80 per common and subordinated unit, reaping proceeds in excess of $200 million.

JURISDICTION AND VENUE

7. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§1331, 1337 and 1367 and Section 27 of the Exchange Act (15 U.S.C. § 78aa).

8. This action arises under Sections 10(b) and 20(a) of the Exchange Act (15 U.S.C. § § 78j(b) and 78t(a)) and Rule 10b-5 promulgated thereunder (17 C.F.R. § 240.10b-5).

9. Venue is proper in this District pursuant to § 27 of the Exchange Act, and 28 U.S.C. § 1391(b) and (c). Substantial acts in furtherance of the alleged fraud and/or its effects have occurred within this District and EOTT maintains its principal executive offices in this District.

10. In connection with the acts alleged in this complaint, defendants, directly or indirectly, used the means and instrumentalities of interstate commerce, including, but not limited to, the mails, interstate telephone communications and the facilities of the national securities markets.

PARTIES

11. Plaintiff Lila Ward, as set forth in the accompanying certification incorporated by reference herein, purchased EOTT common units during the Class Period and was damaged thereby.

12. Defendant Stanley C. Horton ("Horton") was, at all relevant times, EOTT's Chief Executive Officer and Chairman of the Board of Directors. Horton also served as Chief Executive Officer of Enron Transportation Services, a subsidiary of Enron. From 1998 through 2000, Horton received compensation for most, if not all, of the services performed for EOTT directly from Enron. On January 10, 2002, EOTT announced that Horton would be replaced as the Company's Chief Executive Officer.

13. Defendant Dana R. Gibbs ("Gibbs") was, at all relevant times, EOTT's President, Chief Operating Officer and a Director. On January 10, 2002, EOTT announced that Gibbs would replace Horton as the Chief Executive Officer of the Company.

14. Defendant Lawrence Clayton Jr. ("Clayton") was, at all relevant times, EOTT's Chief Financial Officer and Senior Vice President.

15. Defendant Kenneth L. Lay ("Lay") was, at all relevant times, a Director of EOTT. Lay also served as the Chairman of the Board of Directors of Enron until January 24, 2002 when he resigned from such position as a result of allegations that Enron engaged in a massive securities fraud, which had led to Enron's bankruptcy filing on December 2, 2001. In addition, Lay had served as Enron's Chief Executive Officer from 1986 until February 2001.

16. The above individuals are the "Individual Defendants." The Individual Defendants, as senior officers and/or directors of EOTT were controlling persons of the Company. Each exercised their power and influence to cause EOTT to engage in the fraudulent practices complained of herein and, as a result, it is appropriate to treat the Individual Defendants as a group for pleading

purposes and to presume that the false, misleading and incomplete information conveyed in the Company's public filings, press releases and other publications as alleged herein are the collective actions of the narrowly defined group of defendants identified above.

17. Each of the Individual Defendants is liable as a participant in a fraudulent scheme and course of business that operated as a fraud or deceit on purchasers of the Company's securities by disseminating materially false and misleading statements and/or concealing material adverse facts. The scheme: (i) deceived the investing public regarding the Company's business, growth, operations and the intrinsic value of the Company's common units and (ii) caused plaintiff and other members of the Class to purchase EOTT common units at artificially inflated prices.

18. Because of the Individual Defendants' positions with the Company, they had access to the adverse undisclosed information about its business, operations, products, operational trends, financial statements, markets and present and future business prospects via access to internal corporate documents (including the Company's operating plans, budgets and forecasts and reports of actual operations), communication with other officers and employees, attendance at management and Board of Directors meetings and committees of the Board of Directors, and via reports and other information provided to them in connection therewith.

19. As controlling persons of a publicly-held limited partnership whose common units were, and are, registered with the SEC pursuant to the Exchange Act, were traded on the New York Stock Exchange (the "NYSE"), and governed by the provisions of the federal securities laws, the Individual Defendants each had a duty to disseminate promptly, accurate and truthful information with respect to the Company's financial condition and performance, growth, operations, financial statements, business, products, markets, management, earnings and present and future business

prospects, and to correct any previously-issued statements that had become materially misleading or untrue, so that the market price of the Company's publicly-traded securities would be based on truthful and accurate information. The Individual Defendants' misrepresentations and omissions during the Class Period, as described below, violated these specific requirements and obligations.

20. Defendant Arthur Andersen, LLP ("Arthur Andersen") is an international accounting and consulting firm. Arthur Andersen was engaged by EOTT to provide "independent" auditing services and to review filings with the SEC, audits and/or reviews of financial statements which were included in EOTT's SEC filings and annual reports. As a result of the services it rendered to EOTT, Arthur Andersen personnel were present at EOTT's corporate offices and operations continuously during the class period and had continual access to and knowledge of EOTT's private and confidential corporate information and business information.

21. Arthur Andersen was also engaged by Enron to provide "independent" auditing services and to review filings with the SEC, audits and/or reviews of financial statements which were included in Enron's SEC filings and annual reports. As a result of the services it rendered to Enron, Arthur Andersen personnel were present at Enron's corporate offices and operations continuously during the class period and had continual access to and knowledge of Enron's private and confidential corporate information and business information. As the auditor of both EOTT and of Enron, Arthur Andersen had the responsibility under AU Section 230 to perform their work with due professional care.

22. EOTT is a Delaware limited partnership with its principal executive offices located at 2000 West Sam Houston Parkway South, Suite 400, Houston Texas 77042. On October 8, 2002,

EOTT commenced a restructuring plan through a voluntary pre-negotiated Chapter 11 filing. As a result of this bankruptcy filing, EOTT is not named as a defendant in this action.

CLASS ACTION ALLEGATIONS

23. Plaintiff brings this action as a class action pursuant to Federal Rule of Civil Procedure 23(a) and (b)(3) on behalf of a Class consisting of all persons who purchased the common units of EOTT between July 2, 2001 and January 22, 2002, inclusive and who were damaged thereby. Excluded from the Class are the Individual Defendants, persons serving as officers and directors of the Company during the relevant time, members of their immediate families and their legal representatives, heirs, successors or assigns and any entity in which the Individual Defendants have or had a controlling interest.

24. The members of the Class are so numerous that joinder of all members is impracticable. Throughout the Class Period, there were approximately 18.5 million common units of EOTT issued and outstanding, which were actively traded on the NYSE and the NASDAQ under the ticker symbol "EOT." While the exact number of Class members is unknown to plaintiff at this time and can only be ascertained through appropriate discovery, plaintiff believes that there are thousands of members in the proposed Class. Record owners and other members of the Class may be identified from records maintained by EOTT or its transfer agent, and may be notified of the pendency of this action by mail, using the form of notice similar to that customarily used in securities class actions.

25. Plaintiff's claims are typical of the claims of the members of the Class as all members of the Class are similarly affected by the Individual Defendants' wrongful conduct in violation of federal laws complained of herein.

26. Plaintiff will fairly and adequately protect the interests of the members of the Class and has retained counsel competent and experienced in class actions and securities litigation.

27. Common questions of law or fact exist as to all members of the Class and predominate over any questions solely affecting individual Class members. Among the questions of law or fact common to the Class are:

(a) whether the acts, alleged to have been committed in this complaint, violated the federal securities laws;

(b) whether statements made by defendants to the investing public during the Class Period misrepresented material facts about the business, operations, and financial statements of EOTT, and;

(c) to what extent the members of the Class have sustained damages and the proper measure of damages.

28. A class action is superior to all other available methods for the fair and efficient adjudication of this controversy since joinder of all members is impracticable. Furthermore, as the damages suffered by individual Class members may be relatively small, the expense and burden of individual litigation make it impossible for members of the Class to individually redress the wrongs done to them. There will be no difficulty in the management of this action as a class action.

SUBSTANTIVE ALLEGATIONS

A. Background

29. EOTT is a major independent marketer and transporter of crude oil in North America. EOTT also processes, stores, and transports MTBE (methyl tertiary-butyl ether), natural gas and other natural gas liquids products. EOTT transports most of the lease crude oil it purchases via

pipeline that includes 8,000 miles of intrastate and interstate pipeline and gathering systems and a fleet of more than 230 owned or leased trucks.

30. The Company's sole general partner, EOTT Energy Corp. ("EOTT Energy"), is an indirect wholly-owned subsidiary of Enron. Enron maintains an approximate 37% ownership interest in the Company. On October 21, 2002, EOTT Energy filed a voluntary petition for reorganization under Chapter 11 to join in EOTT's pre-negotiated restructuring plan.

31. As a limited partnership, EOTT makes minimum quarterly distributions to unit holders, which represent a major reason that investors purchase the Company's units. In the year 2000, EOTT paid minimum cash distributions of $0.475 per quarter, or $1.90 for the year, representing an average annual yield of 12.1%. Under EOTT's partnership agreement, Enron is obligated to provide the Company with up to $29 million in cash to fund the Company's quarterly cash distribution, in the event that the Company is unable to meet those obligations under circumstances detailed in the partnership agreement. Enron's support obligation was due to expire on December 31, 2001.

32. In addition to its ownership interest in EOTT, and its obligation to support the Company's cash distributions, Enron provided EOTT with a $1 billion credit facility, which expired on December 31, 2001, through which Enron supplied the Company with letters of credit (which the Company uses to pay its suppliers), working capital loans and guarantees.

33. On November 8, 2001, Enron announced that it would restate its financial results for the years 1997-2001 to include losses from partnerships which should have been consolidated into Enron's results during those years according to Generally Accepted Accounting Principles ("GAAP"). Through this restatement, Enron admitted that it had improperly recognized hundreds

of millions of dollars in revenues and inflated shareholders' equity by approximately $1 billion. Prior to the announcement of the restatement, Enron insiders took advantage of such material adverse information and sold approximately $1.1 billion in Enron stock, before public disclosure of the nature and scope of the restatement and a corresponding collapse of Enron's stock price. In particular, Lay sold over $101 million in Enron stock while in possession of the materially negative information of Enron's true condition.

34. As a result of the restatement, Enron and certain insiders, including Lay, became the focus of SEC and Congressional investigations into the circumstances surrounding the collapse, and they have been named as defendants in numerous private securities fraud class action suits alleging violations of the federal securities laws. On December 2, 2001, Enron filed for bankruptcy protection under Chapter 11 of the Bankruptcy Code.

B. Materially False And Misleading Statements Made During The Class Period

35. On July 2, 2001, the Company announced that it had purchased certain assets, which included a hydrocarbon processing complex in Morgan's Point, Texas, a liquids pipeline grid system, and a natural gas liquids storage facility in Chambers County, Texas from Enron Gas Liquids, Inc. ("EGL"), an affiliate of Enron, for an aggregate purchase price of approximately $120 million. EOTT further announced that, in connection with these acquisitions, it entered into a 10-year tolling agreement for production from the processing complex (the "Tolling Agreement"), which is currently producing MTBE and isobutylene, and a 10-year storage and transportation agreement for the use of the storage and pipeline grid system with EGL.

36. The Tolling Agreement was presented as a risk-reducing vehicle for the Company, which would not be subject to commodity risk of having to purchase the raw materials for the processing complex at volatile market prices, as Enron would bear that risk in that EGL would "retain[] all existing third party commodity, transportation and storage contracts associated with the[] facilities." In a press release discussing the transaction, Gibbs stated that, in addition to the benefits to the Company from transferring substantial risk to Enron, the Tolling Agreement would also contribute substantially to the Company's earnings, as the final product would be purchased by Enron:

> This acquisition provides EOTT assets with an excellent operating history and an experienced workforce. Combined with the term agreements, the acquisition will provide accretive earnings and stable cash-flows without commodity market or price exposure. . . . We estimate that this transaction will increase the company's EBITDA approximately $20 million on an annualized basis.

37. EOTT was followed by numerous securities analysts employed by major brokerage and research firms. On July 3, 2001, the Company hosted a conference call to discuss in greater detail the asset purchase and its implications for the Company, which was attended by the securities analysts following the Company, among others, and was open to the general investing public. The information contained in the research reports, which are discussed below, was provided to the analysts at the conference call and subsequently by persons acting on behalf of the Company.

38. On July 5, 2001, UBS Warburg issued a research report authored by R.J. Barone, which reiterated its "Buy" rating on the Company units and discussed the Tolling Agreement. In that regard, the report explained that the Company could share in Enron's revenues from the sale of the final product: "EOTT is paid a fixed margin based on a targeted level of production and is

incentivized to produce in excess of the minimum levels due to revenue sharing provisions above the targeted minimum levels." The report further stated that the Tolling Agreement also eliminated costs associated with converting the processing plant to produce other products:

> As a result of termination payments, the tolling agreement substantially eliminates EOTT's risk of the possible phase out or banning of MTBE as a gasoline additive. Included in the agreement are provisions to modify and convert the facility to produce other products subject to certain conditions. EOTT estimates that the cost to convert the facility to iso-octane would be around $40-$50 million, if necessary.

In addition, the report explained that EGL "retains all third party commodity, transportation and storage contracts associated with these facilities. EOTT's primary focus will be on the reliable and efficient operation of the assets." Finally, the report concluded by raising its 2001 earnings estimate to $0.65 per unit from $0.60, largely on the accretive value of the acquisition and associated agreements: "We believe that these asset acquisitions fit well into the Company's strategy of growth through acquisitions with stable cash flows and very limited commodity price exposure to EOTT."

39. Also on July 5, 2001, Dain Rauscher Wessels issued a research report authored by M.S. Easterbrook. The report, which was based, in part, on the same July 3 conference call attended by all of the analysts, concluded that the recent transaction is beneficial to the Company, stating that: "We believe the new assets should provide steady cash flow and limited risk as minimum volume contracts and termination clauses are in place."

40. Subsequently, on July 13, 2001, Lehman Brothers Inc., joined the chorus of praise for the Company's recent transactions with Enron. The report, penned by R. Gross, echoed Gibbs' July 2 statements in the press release, highlighting that stable cash flow will be generated while risk

will be reduced. In addition, the report calculated that the expected $20 million contribution to EBITDA by the acquired "should be accretive to distributable cash by $0.09 -$.11 per unit."

41. The statements referred to in ¶¶ 35-37, 38-40 above, regarding the Company's reduced risk and increased cash flow and earnings from the Enron asset purchase and Tolling Agreement, were each materially false and misleading when made as they misrepresented and/or omitted the following adverse facts which then existed and disclosure of which was necessary to make the statements made not false and/or misleading, including:

a. that the Individual Defendants knew or recklessly disregarded that Enron was engaging in improper accounting and that its business and finances were much worse than presented to the public;

b. that the Company's close affiliation and business dealings with Enron, and the Company's reliance on the $1 billion credit facility supplied by Enron, was placing the Company's business at much greater risk than was conveyed to the public;

c. that there was a real and imminent threat that Enron would be unable to live up to its end of the Tolling Agreement (which was repeatedly portrayed as reducing risks to the Company), and that this would have a materially negative impact on the Company and that it could not contribute cash to fund EOTT's minimum distribution in the event EOTT would be unable to otherwise fund it; and

d. that the favorable statements contained in the July 2 press release and July 3 conference call, including that the deal would add $20 million in EBIDTA, were materially false and misleading and were lacking in any reasonable basis.

42. On August 13, 2001, EOTT issued a press release announcing increased second quarter of 2001 results, and that, as a result of the recent transaction with Enron, it was dramatically raising its 2001 earnings target. For the second quarter, the Company reported a 24% increase in net income over the second quarter of 2000 to $4.1 million, or $0.15 per unit. In commenting on the results, Horton stated the following:

> Second quarter results were consistent with our expectations, reflecting improvement over the prior year even though market conditions were not as favorable for the crude transportation and marketing businesses. . . . ***In addition, at the end of June, EOTT purchased processing, storage and transportation assets for $117 million and we are concentrating on integrating these assets into the EOTT organization. As a result of this acquisition and the consistent performance of our businesses, we are raising our full year 2001 earnings target from $0.60 to $0.95 per unit. This expectation represents more than a 100 percent increase over 2000 recurring results.***[Emphasis added].

43. Two days after the Company's press release, on August 15, 2001, M.S. Easterbrook of Dain Rauscher Wessels issued a report discussing the Company's second quarter of 2001 results. The report recommended the purchase of EOT units and rated the units as "Buy-Aggressive." The report echoed the Company's press release regarding the benefits of the asset purchase and Tolling Agreement, and added that they would be crucial to the Company's near-term performance:

> New Assets Are Key to Near-Term Upside: In late June, EOTT purchased processing, storage, and transportation assets for $117 million from Enron Corporation [. . .] ***Management has integrated all of the new assets into the Company's business mix and expects them to be immediately accretive to second-half results.*** As a result, we are raising this year's and next year's estimates [. . .] [emphasis added].

44. On September 28, 2001, Enron sold 3,276,483 EOTT common units and 6,999,300 subordinated units, at a price of $19.80 per common and subordinated unit, for total proceeds exceeding $200 million. In addition, Enron also sold that day $9,317,281 EOTT APIs.

45. As stated above, on November 8, 2001, Enron announced that it would be restating its financial results for the years 1997 through 2001. In response to such news, the Company's unit price rose slightly, closing at $19.05 per unit on November 8, to a $19.44 close on November 9, and closed at $9.55 the following day.

46. Despite the news of Enron's restatement, on November 12, 2001, EOTT issued a press release in which it announced an 88% increase in third quarter 2001 earnings, based on reported net income of $7.4 million, or $0.26 per unit. Commenting on the results, Horton stated that:

> EOTT continues to deliver excellent financial performance resulting in its sixth consecutive increase in quarter-over-quarter earnings and its highest quarterly earnings in recent history. . . . Third quarter results were in line with our expectations reflecting the added benefit from the processing, storage and transportation assets acquired at the end of June, partially offset by lower than expected results from our West Coast business.

The press release further discussed the contribution made by the newly purchased assets and associated Tolling Agreement to EOTT's:

> The processing, storage and transportation assets, reported in the new Liquids Operations segment, generated operating income of $9.5 million for the third quarter of 2001, reflecting volumes processed and facility throughput in excess of contractual requirements with operating costs at targeted levels.

The Tolling Agreement's contribution to EOTT's bottom line was substantial -- the $9.5 million in operating income represented 53% of the Company's reported total third quarter operating income

of $17.735 million. According to the press release, the Company was anticipating a weaker fourth quarter of 2001 than previously expected, and lowered slightly its 2001 earnings target to $0.90 to $0.94 per unit, from $0.95. Notably, despite the substantial ties with Enron, the Company's press release did not discuss Enron's recent public disclosures regarding its financial health.

47. The statements referred to in ¶¶ 42-43, 46 above were each materially false and materially false and misleading when made as they misrepresented and/or omitted the following adverse facts which then existed and disclosure of which was necessary to make the statements made not false and/or misleading, including:

a. that defendants knew or recklessly disregarded that Enron was engaging in improper accounting and that its business and finances were much worse than presented to the public;

b. that the Company's close affiliation and business dealings with Enron, and the Company's reliance on the $1 billion credit facility supplied by Enron, was placing the Company's business at much greater risk than was conveyed to the public;

c. that there was a real and imminent threat that Enron would be unable to live up to its end of the Tolling Agreement (which was repeatedly portrayed as reducing risks to the Company), and that this would have a materially negative impact on the Company and that it could not contribute cash to fund EOTT's minimum distribution in the event EOTT would be unable to otherwise fund it; and

d. that the Company's earnings guidance of $0.90- $0.94 for 2001, representing substantial growth over its 2001 results, were lacking in any reasonable basis.

C. The Truth Begins to Emerge

48. On November 30, 2001, EOTT finally issued a press release discussing the impact that Enron's troubles may have on the Company. Significantly, the Company revealed that it would be subject to increased commodity risk and stands to lose $23 million in annual cash flow if the EGL was unable to live up to the Tolling Agreement:

> EOTT's management previously estimated that the ten-year toll conversion and storage capacity agreements with EGLI would provide annual cash flow to EOTT in excess of $23 million, with no material commodity market exposure. If EGLI is unable to meet its contractual obligations, this could subject EOTT to a significant increase in market commodity risk, and EOTT's cash flow over the ten-year term of the agreements could vary significantly from levels previously forecast.

The press release further announced the resignation of two of the three outside directors of EOTT Energy. The press release concluded by stating that, "While it is not feasible to predict the final outcome of these events, EOTT could be materially and adversely affected if Enron and its subsidiaries do not meet their contractual obligations to Enron." In response to these announcements, the price of EOTT common units dropped from a $14.96 per unit close on November 29, to close at $9 on November 30.

49. Despite these negative effect of these announcements, the Company failed to reveal to the investing public the full impact of Enron's financial troubles on EOTT's business and, importantly, of the Company's ability to pay its minimum quarterly distribution of $0.475.

50. On December 3, 2001, a day after Enron filed for bankruptcy, EOTT announced that EOTT Energy was not a included in Enron's bankruptcy petition. The price of EOTT common units rose to $12.80 on this news.

51. Shortly thereafter, on December 7, 2001, EOTT announced that, because EGL was included in the Enron bankruptcy petition, "clarification of EGLI's long-term performance under its 10-year agreement with EOTT will be required under Enron's bankruptcy proceedings." The Company also warned that it may be required to take a charge relating to the Tolling Agreement, stating in pertinent part the following:

> At this point in time, EOTT cannot determine whether EGLI's bankruptcy will have an adverse impact on these ten-year agreements, however, EOTT could be required to recognize a non-cash impairment of up to $30 million related to these contracts.

The press release also announced that a third outside director of EOTT Energy had resigned. As a result of this news, the Company's unit price declined slightly.

52. On January 22, 2002, the Company announced that it could not pay its minimum quarterly distribution of $0.475 per common unit and instead would pay only $0.25 per common unit. The shortfall was blamed on the uncertainty surrounding the viability of the Tolling Agreement, working capital troubles in light of Enron's bankruptcy, and Enron's inability to provide the distribution support it is contractually obligated to provide in the event of EOTT's shortfall:

> The distribution for the fourth quarter of $0.25 per common unit is lower than the minimum quarterly distribution amount of $0.475 per common unit and reflects several interrelated factors including the uncertainty related to EOTT's term financing and working capital facilities, continued weakness in the crude markets and approximately $20 million of projected expenditure requirements over the next several months related to scheduled turnaround costs for the MTBE plant and certain capital expansion projects currently underway. Also contributing to the decision to make a reduced cash distribution was the on-going uncertainty related to EGLI's bankruptcy filing and the resulting effect on its performance under the 10-year agreements related to EOTT's MTBE and LPG grid and storage facilities.
>
> * * *

> . . . . Enron has indicated that it will not pay the fourth quarter cash distribution shortfall of $0.225 per common unit. EOTT's claim for the distribution support amount will be addressed through the bankruptcy proceedings.

EOTT also warned that its 2001 earnings "will be less than previous target levels of $0.90-$0.94 per unit . . . ."

53. In response to the press release, the price of EOTT common units plummeted by 32% in one day, falling from $15.05 per unit to close at $10.19 per unit on January 22, 2002, on unusually heavy trading volume.

D. Undisclosed Adverse Information

54. The market for EOTT's common units was open, well-developed and efficient at all relevant times. As a result of these materially false and misleading statements and failures to disclose, EOTT common units traded at artificially inflated prices during the Class Period. The artificial inflation continued until the time EOTT revealed that it would not be able to pay its minimum quarterly distribution for the fourth quarter of 2001 because of shortfalls related to Enron's bankruptcy. Plaintiff and other members of the Class purchased or otherwise acquired EOTT's common units relying upon the integrity of the market price of the Company's common units and market information relating to EOTT, and have been damaged thereby.

55. During the Class Period, the Individual Defendants materially misled the investing public, thereby inflating the price of EOTT common units, by publicly issuing false and misleading statements and omitting to disclose material facts necessary to make the Individual Defendants' statements, as set forth herein, not false and misleading. Said statements and omissions were

materially false and misleading in that they failed to disclose material adverse information and misrepresented the truth about the Company, its business and operations, as detailed herein.

56. At all relevant times, the material misrepresentations and omissions particularized in this Complaint directly or proximately caused or were a substantial contributing cause of the damages sustained by plaintiff and other members of the Class. As described herein, during the Class Period, the Individual Defendants made or caused to be made a series of materially false or misleading statements about EOTT's earnings. These material misstatements and omissions created in the market an unrealistically positive assessment of EOTT and its prospects and operations, thus causing the Company's common units to be overvalued and artificially inflated at all relevant times. The Individual Defendants' materially false and misleading statements during the Class Period resulted in plaintiff and other members of the Class purchasing the Company's common units at artificially inflated prices, thus leading to their losses when the illusion was revealed, and the market was able to accurately value the Company.

57. As the auditor of both EOTT and of Enron, Arthur Andersen had the responsibility under AU Section 230 to perform their work with due professional care. Arthur Andersen's position as the auditor of both EOTT and Enron placed them in a unique position. Arthur Andersen had a responsibility to learn the significance to both companies of tolling agreements discussed infra, as well as the commitment requiring Enron to fund any short falls of EOTT in its quarterly cash distributions and through its provision of credit to EOTT.

58. During the class period, Arthur Andersen's work performed related to quarterly filings with the SEC by both EOTT and Enron should have made them aware of the tolling agreement and asset purchase. Under AU Section 722.09, the objective of a review of interim

financial information is to provide the accountant, based on applying his or her knowledge of financial reporting practices to significant accounting matters of which they become aware, with a basis for reporting whether material modifications should be made for such information to conform with GAAP.

59. Arthur Andersen's knowledge of the true financial condition of Enron required that they either incorporate proper disclosure of the true risk to EOTT associated with the relationship with Enron or to disassociate the firm from the quarterly reports filed by EOTT. Either approach would have served to inform the market of the risk involved. Arthur Andersen did neither.

60. The dramatic increase in EOTT's third quarter 2001 earnings demonstrate that the deal with Enron was highly material to the reported quarterly results of operations of EOTT and to the earnings forecasts being announced to the public.

SCIENTER ALLEGATIONS

61. As alleged herein, the Individual Defendants acted with scienter in that they knew that the public documents and statements issued or disseminated in the name of the Company were materially false and misleading; knew that such statements or documents would be issued or disseminated to the investing public; and knowingly and substantially participated or acquiesced in the issuance or dissemination of such statements or documents as primary violations of the federal securities laws. As set forth elsewhere herein in detail, the Individual Defendants, by virtue of their receipt of information reflecting the true facts regarding EOTT, their control over, and/or receipt and/or modification of the Company's allegedly materially misleading misstatements and/or their associations with the Company which made them privy to confidential proprietary information concerning EOTT, participated in the fraudulent scheme alleged herein.

62. The Individual Defendants engaged in the scheme to inflate the price of EOTT common units in order to allow Enron, its controlling shareholder, to sell a total of 10,275,783 common and subordinated units at the artificially inflated price of $19.80 per unit, and, in addition, sold $9,317,281 worth of EOTT APIs. Enron's total proceeds from these sales were $211 million.

APPLICABILITY OF PRESUMPTION OF RELIANCE: FRAUD-ON-THE-MARKET DOCTRINE

63. At all relevant times, the market for EOTT units was an efficient market for the following reasons, among others:

a. EOTT units met the requirements for listing, and was listed and actively traded on the NYSE and NASDAQ, highly efficient and automated markets;

b. As a regulated issuer, EOTT filed periodic public reports with the SEC, the NYSE and the NASDAQ;

c. EOTT regularly communicated with public investors via established market communication mechanisms, including through regular disseminations of press releases on the national circuits of major newswire services and through other wide-ranging public disclosures, such as communications with the financial press and other similar reporting services; and

d. EOTT was followed by several securities analysts employed by major brokerage firms who wrote reports, which were distributed to the sales force and certain customers of their respective brokerage firms. Each of these reports was publicly available and entered the public marketplace.

64. As a result of the foregoing, the market for EOTT's units promptly digested current information regarding the Company from all publicly available sources and reflected such

information in EOTT's unit price. Under these circumstances, all purchasers of the Company's common units during the Class Period are entitled to a presumption of reliance because they all suffered similar injury through their purchase of the Company's common units at artificially inflated prices.

NO SAFE HARBOR

65. The statutory safe harbor provided for forward-looking statements under certain circumstances does not apply to any of the allegedly false statements pleaded in this complaint. Many of the specific statements pleaded herein were not identified as "forward-looking statements" when made. To the extent there were any forward-looking statements, there were no meaningful cautionary statements identifying important factors that could cause actual results to differ materially from those in the purportedly forward-looking statements. Alternatively, to the extent that the statutory safe harbor does apply to any forward-looking statements pleaded herein, the Individual Defendants are liable for those false forward-looking statements because at the time each of those forward-looking statements was made, the particular speaker knew that the particular forward-looking statement was false, and/or the forward-looking statement was authorized and/or approved by an executive officer of EOTT who knew that those statements were false when made.

FIRST CLAIM

Violation Of Section 10(b) Of The Exchange Act And Rule 10b-5 Promulgated Thereunder Against All Defendants

66. Plaintiff repeats and realleges each and every allegation contained above as if fully set forth herein.

67. During the Class Period, the Individual Defendants each carried out a plan, scheme and course of conduct which was intended to and did: (i) deceive the investing public, including plaintiff and other Class members, as alleged herein; (ii) artificially inflate and maintain the market price of EOTT's common units; and (iii) cause plaintiff and other members of the Class to purchase the Company's common units at artificially inflated prices. In furtherance of this unlawful scheme, plan and course of conduct, the Individual Defendants acted as set forth herein.

68. Defendants (1) employed devices, schemes, and artifices to defraud; (2) made untrue statements of material fact and/or omitted to state material facts necessary to make the statements not misleading; and (3) engaged in acts, practices, and a course of business which operated as a fraud and deceit upon the purchasers of the Company's securities in an effort to maintain artificially high market prices for EOTT's securities in violation of Section 10(b) of the Exchange Act and Rule 10b-5. The Individual Defendants are sued either as primary participants in the wrongful and illegal conduct charged herein and as controlling persons as alleged below.

69. In addition to the duties of full disclosure imposed on the Individual Defendants as a result of their dissemination of affirmative statements, or participation in the making of affirmative statements to the investing public, the Individual Defendants had a duty to promptly disseminate truthful information that would be material to investors in compliance with the integrated disclosure provisions of the SEC as embodied in SEC Regulation S-X (17 C.F.R. Sections 210.01 et seq.) and Regulation S-K (17 C.F.R. Sections 229.10 et seq.) and other SEC regulations, including accurate and truthful information with respect to the Company's operations, financial condition and earnings so that the market price of the Company's securities would be based on truthful, complete and accurate information.

70. The Individual Defendants, individually and in concert, directly and indirectly, by the use, means or instrumentalities of interstate commerce and/or of the mails, engaged and participated in a continuous course of conduct to conceal adverse material information about the business, operations and future prospects of EOTT as specified herein.

71. These defendants employed devices, schemes and artifices to defraud, while in possession of material adverse non-public information and engaged in acts, practices, and a course of conduct as alleged herein in an effort to assure investors of EOTT's value and performance and continued substantial growth, which included the making of, or the participation in the making of, untrue statements of material facts and omitting to state material facts necessary in order to make the statements made about EOTT and its business operations and future prospects in the light of the circumstances under which they were made, not misleading, as set forth more particularly herein, and engaged in transactions, practices and a course of business which operated as a fraud and deceit upon the purchasers of EOTT's common units during the Class Period.

72. Each of the Individual Defendants' primary liability, and controlling person liability, arises from the following facts: (i) the Individual Defendants were high-level executives and/or directors at the Company during the Class Period and members of the Company's management team or had control thereof; (ii) each of the Individual Defendants, by virtue of his responsibilities and activities as a senior officer and/or director of the Company was privy to and participated in the creation, development and reporting of the Company's internal budgets, plans, projections and/or reports; (iii) each of the Individual Defendants enjoyed significant personal contact and familiarity with the other defendants and was advised of and had access to other members of the Company's management team, internal reports and other data and information about the Company's finances,

operations, and sales at all relevant times; and (iv) each of the Individual Defendants were aware of the Company's dissemination of information to the investing public which they knew or recklessly disregarded was materially false and misleading.

73. The Individual Defendants had actual knowledge of the misrepresentations and omissions of material facts set forth herein, or acted with reckless disregard for the truth in that they failed to ascertain and to disclose such facts, even though such facts were available to them. Defendants' material misrepresentations and/or omissions were knowingly or recklessly made for the purpose and effect of concealing EOTT's operating condition and future business prospects from the investing public and artificially inflated the price of its securities. If the Individual Defendants did not have actual knowledge of the misrepresentations and omissions alleged, they were at the very least reckless in failing to obtain such knowledge by deliberately refraining from taking the steps necessary to determine whether those statements were false or misleading.

74. As a result of the dissemination of the materially false and misleading information and failure to disclose material facts, the market price of EOTT's common units was artificially inflated during the Class Period. Plaintiff and other members of the Class did not know that the market price of EOTT's publicly-traded securities was artificially inflated, and directly or indirectly relied on either the false and misleading statements made by defendants, or on the integrity of the NYSE and the NASDAQ, and/or on the absence of material adverse information that was known to or recklessly disregarded by defendants but not disclosed in public statements by defendants during the Class Period. Plaintiff and the other members of the Class acquired EOTT's common units during the Class Period at artificially high prices based on their reliance and were damaged thereby.

75. At the time the Individual Defendants disseminated the misrepresentations and omissions complained of herein, plaintiff and other members of the Class were ignorant of their falsity, and believed them to be true. Had plaintiff and the other members of the Class and the marketplace known of the true financial condition and business prospects of EOTT, which were not disclosed by the Individual Defendants, plaintiff and other members of the Class would not have purchased or otherwise acquired EOTT common units, or would not have purchased them at the artificially inflated prices which they actually paid.

76. By virtue of the foregoing, the Individual Defendants have violated Section 10(b) of the Exchange Act, and Rule 10b-5 promulgated thereunder.

77. As a direct and proximate result of the Individual Defendants' wrongful conduct, plaintiff and the other members of the Class suffered damages in connection with their purchases and sales of the Company's common units during the Class Period.

SECOND CLAIM

Violation Of Section 20(a) Of The Exchange Act Against Individuals Defendants

78. Plaintiff repeats and realleges each and every allegation contained above as if fully set forth herein.

79. The Individual Defendants acted as controlling persons of EOTT within the meaning of Section 20(a) of the Exchange Act. By virtue of their high-level positions, and their ownership and contractual rights, participation in and/or awareness of the Company's operations, the Individual Defendants had the power to influence and control and did influence and control, directly or indirectly, the decision-making of the Company, including the content and dissemination of the

various statements which plaintiff contends are false and misleading. The Individual Defendants were provided with, or had unlimited access to, copies of the Company's reports, press releases, public filings and other statements alleged by plaintiff to be misleading prior to and/or shortly after these statements were issued and had the ability to prevent the issuance of the statements or cause the statements to be corrected.

80. In particular, each of these defendants had direct and supervisory involvement in the day-to-day operations of the Company and, therefore, are presumed to have had the power to control or influence the particular transactions giving rise to the securities violations as alleged herein, and exercised the same.

81. As set forth above, the Individual Defendants each violated Section 10(b) and Rule 10b-5 by their acts and omissions as alleged in this Complaint. By virtue of their positions as controlling persons, the Individual Defendants are liable pursuant to Section 20(a) of the Exchange Act. As a direct and proximate result of the Individual Defendants' wrongful conduct, plaintiff and other members of the Class suffered damages in connection with their purchases of the Company's common units during the Class Period.

WHEREFORE, plaintiff prays for relief and judgment, as follows:

1. Determining that this action is a proper class action, designating plaintiff as Lead Plaintiff and certifying plaintiff as a class representative under Rule 23 of the Federal Rules of Civil Procedure and plaintiff's counsel as Lead Counsel;

2. Awarding compensatory damages in favor of plaintiff and the other Class members against all defendants, jointly and severally, for all damages sustained as a result of defendants' wrongdoing, in an amount to be proven at trial, including interest thereon;

3. Awarding plaintiff and the Class their reasonable costs and expenses incurred in this action, including counsel fees and expert fees; and

4. Such other and further relief as the Court may deem just and proper.

JURY TRIAL DEMANDED

Plaintiff hereby demands a trial by jury.

DATED: February 10, 2003
Houston, Texas

Respectfully Submitted,

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CERTIFICATION OF NAMED PLAINTIFF
PURSUANT TO FEDERAL SECURITIES LAWS

LILA WARD ("Plaintiff") (through RON WARD, as Power of Attorney), declares as to the claims asserted, or to be asserted, under the federal securities laws, that:

1. Plaintiff has reviewed the BOTT Energy Partners, L.P. complaint and authorized its filing.

2. Plaintiff did not purchase any common stock/securities that are the subject of this action at the direction of Plaintiff's counsel or in order to participate any private action under the federal securities laws.

3. Plaintiff is willing to serve as a representative party on behalf of the class, including providing testimony at deposition and trial, if necessary. I understand that this is not a claim form, and that my ability to share in any recovery as a member of the class is not dependent upon execution of this Plaintiff Certification.

4. The following includes all of Plaintiff's transactions during the Class Period specified in the complaint for the common stock/securities that are the subject of this action:

SECURITY (Common Stock, Call, Put, Bonds)	TRANSACTION (Purchase, Sale)	QUANTITY	TRADE DATE	PRICE PER SHARE/SECURITY
BOTPQ	Purchased	500 shares	9/19/01	$21/share

Please list additional transactions on a separate sheet if necessary.

5. Plaintiff has not sought to serve or served as a representative party for a class in an action filed under the federal securities laws within the past three years, unless otherwise stated in the space below:

6. Plaintiff will not accept any payment for serving as a representative party on behalf of the class beyond Plaintiff's pro rata share of any recovery, except such reasonable costs and expenses (including lost wages) directly relating to the representation of the class as ordered or approved by the court.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 21 day of January, 2002.

Ron Ward, As Power of Attorney for Lila Ward
(Signature)

The Exhibit(s) May

Be Viewed in the

Office of the Clerk